

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ARTHUR WEST,

Plaintiff,

v.

BRUCE and RHONDA HILYER, etc. al.,

Defendants.

Case No. C10-5395 RBL

ORDER DENYING MOTION TO
DISMISS WITHOUT PREJUDICE

This matter is before the Court on the Plaintiff's Motions to Dismiss Without Prejudice [Dkt. # 25, 26, 27]. Plaintiff filed his complaint on June 4, 2010, alleging mail and wire fraud. Defendants filed a motion for summary judgment on October 7, 2010. Instead of responding on the merits, Plaintiff moved to dismiss his claims without prejudice under Fed. R. Civ. P. 41(a)(2).

A motion for voluntary dismissal under Rule 41(a)(2) will only be granted if the defendant is not prejudiced. *Galasso v. Eisman*, 310 F.Supp. 2d 569, 572 (S.D. NY. 2004). In *Galasso*, the court denied a plaintiff's motion to dismiss without prejudice because among other reasons, the defendant had a pending motion for summary judgement. 310 F.Supp. 2d at 572. The court held that "a party should not be permitted to avoid the prospect of an adverse decision on a dispositive motion by dismissing a claim without prejudice." *Id.* This Court will not allow Plaintiff to do so here.

1 Plaintiff is a "frequent filer" in Federal Court, often engaging in "hit and run" litigation. He files
2 inflammatory claims against public officials only to retreat, seeking a motion to dismiss without prejudice,
3 when confronted with motions aimed at killing his lawsuit. This practice or habit will not be permitted by
4 this Court.

5 Plaintiff's Motions to Dismiss Without Prejudice [Dkt. # 25, 26, 27] are DENIED. Plaintiff must
6 respond to Defendant's Motion for Summary Judgment within 10 days. If Plaintiff does not respond, his
7 claims will be Dismissed WITH PREJUDICE.

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9 **IT IS SO ORDERED.**

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11 DATED this 5th day of November, 2010.

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13 
14 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE